

VZCZCXRO3910
PP RUEHDBU RUEHPW
DE RUEHBUL #0993/01 1100859
ZNR UUUUU ZZH
P 200859Z APR 09
FM AMEMBASSY KABUL
TO RUEHC/SECSTATE WASHDC PRIORITY 8533
INFO RUCNAFG/AFGHANISTAN COLLECTIVE PRIORITY

UNCLAS SECTION 01 OF 02 KABUL 000993

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [KDEM](#) [PGOV](#) [AF](#)
SUBJECT: THE ECC: STILL COMING TOGETHER

1. (U) SUMMARY: The fledgling Electoral Complaints Commission (ECC) is scrambling to meet its first responsibility, the May 26 kick off of the candidate challenge period. As the arbitrator determining candidate qualifications and sanctions for electoral offenses, the ECC's safeguards will substantially impact the level playing field. The five-member commission is still awaiting the arrival of two international commissioners. The ECC must work quickly to establish itself as an independent, transparent and just mechanism for adjudicating challenges and complaints against candidates before it dissolves 30 days after the certification of election results. After staffing, logistics, and security, the ECC's next challenge is reaching the Afghan public. END SUMMARY.

GETTING STARTED...AT LAST

2. (U) Article 52 of the Afghan Electoral Law dictates the ECC's composition as: a member appointed by the Supreme Court; a member appointed by the Afghan Independent Human Rights Commission (AIHRC); and three international members appointed by the Special Representative of the Secretary General (SRSG). On April 4, after delaying for several weeks, SRSG Kai Eide formed the commission by naming the three international members: Grant Kippen, Scott Worden and Maarten Halff (bio information septel). Contracts with the UN remain unsigned by some of the international commissioners and salary negotiations are reportedly contentious. The appropriate Afghan institutions have already nominated the two national commissioners: Ahmad Fahim Hakin, deputy chair of the AIHRC; and Mawlawi Mohammad Mustafa Barakzai, head of the Documents Department of the Supreme Court.

3. (U) Timely establishment of the ECC's provincial structure is critical for safeguarding the process throughout the country and enhancing the public perception of credibility for the complaints process. Grant Kippen told Emboffs that he thought staffing would be sufficient to actively initiate investigations. Thirty-four provincial offices and around 50 Kabul-based employees will support the commissioners. In all 34 provinces, a community leader, an attorney and an investigator will comprise the Provincial Complaints Commission (PCC), supported by administrative staff. In eight of those provinces, the ECC will establish an additional four-person legal and investigative regional support team, to include two lawyers, two investigators and additional support personnel. These teams would provide complaints-related support in the home and adjoining provinces. Only local nationals will work at the provincial level. The ECC has requested the Attorney General's Office, AIHRC, and the Ministry of Justice (MOJ) second appropriate professionals and is also advertising for additional staff through the Afghan Bar Association. In total, the ECC must fill approximately 280 positions in Kabul and the provinces.

SOME PROGRESS...

14. (SBU) The ECC is seeking creative ways to meet its staffing challenges. UNDP will contract for 13 Kabul-based international staff, and the ECC is actively seeking potential qualified Afghans to fill its many national vacancies. While maintaining independence from the IEC, the ECC is using the constructive relationship between the two organizations to coordinate with the IEC to supplement their personnel. For instance, to provide additional time for hiring and training ECC staff, the IEC's external relations officers will accept the challenge documents in the provinces during the May 16-21 challenge period. The ECC is also leveraging a small public outreach staff through coordination with the IEC, allowing the ECC expanded outreach capability. The ECC plans to proactively start investigations into publicly known electoral offenses and Grant Kippen welcomed UNAMA provincial offices' reporting on possible offenses known to the international community. Looking to 2010 and beyond, there are clear long-term public benefits to developing a pool of qualified, experienced professional from which to draw for legal and election staffing.

LOGISTICS, SECURITY KEY

15. (U) The ECC is currently operating its Kabul headquarters out of a one-room, temporary office. The future office has been leased and furnished by UNDP and is undergoing security upgrades to comply with the UN's minimum operational security standards. With procurement ongoing, mid-May is the earliest estimated move-in, leaving little time to settle in before the campaign challenge period. Locating provincial offices

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remains an issue. To build on existing infrastructure, the ECC is requesting space in provincial offices of other government agencies. This may reduce costs, a benefit for the ECC's approximately USD 13M budget, and could decrease time needed for move-in of ECC officials. We do not anticipate a detrimental effect on the complaints process, as co-located ECC offices will make the most out of limited provincial infrastructure, yet remain independent of the agency housing them.

16. (SBU) Commissioner Grant Kippen and MOI Atmar met last week to discuss ECC security. The Minister acknowledged the need for ECC security, but did not commit to specifics. As follow-up, the ECC is drafting a letter to the MOI formally requesting security support. The ECC is also considering options for Kabul HQ security, including the possibility of contracting Private Security Companies (PSC). The present ECC budget has no funds for PSC security.

AHEAD: REACHING OUT TO AFGHANS

17. (U) Through the ECC, all stakeholders - candidates and voters alike - should have a voice. Now the ECC must make its work and procedures known to its constituency, the Afghan public. The national commissioners are considering provincial travel as a confidence building public outreach mechanism. Public perception of the ECC's credibility will depend on success in public outreach and civic education. Filing a challenge is simple, but ensuring public understanding of the process and confidence in the ECC poses a greater dilemma. Afghans must understand the adjudication process, which will occur at the PCCs when possible. For some cases, adjudication may require consideration in Kabul depending on the nature of the challenge and security for the PCC members.

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